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# NAVAL POSTGRADUATE SCHOOL

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# THESIS

THE BUDGET ENFORCEMENT ACT OF 1990:  
SUPPLEMENTAL APPROPRIATION SPENDING CONTROL  
EFFECTIVENESS

by

Winford Wesley Knowles

December, 1990

Thesis Advisor:

Professor Richard Doyle

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The Budget Enforcement Act of 1990: Supplemental  
Appropriation Spending Control Effectiveness

by

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Submitted in partial fulfillment of the  
requirements for the degree of

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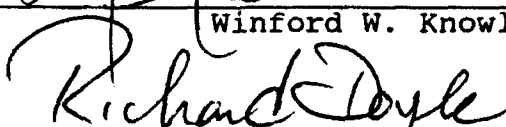
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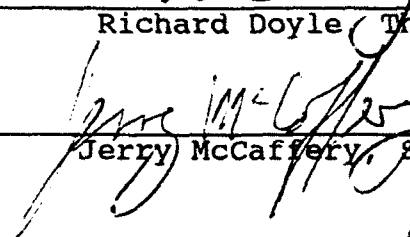


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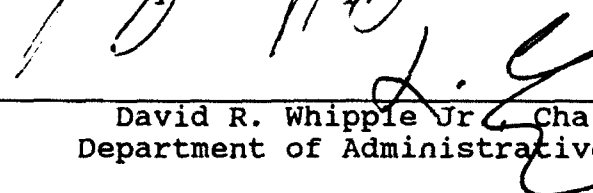
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## ABSTRACT

The purpose of this thesis is to identify and evaluate the impact of the Budget Enforcement Act of 1990 (BEA) on the supplemental appropriation process. The main thrust of the thesis will be to determine whether the changes brought about by the passage of the BEA have had any noticeable impact upon spending controls within supplemental appropriation legislation. It will also make an assessment in the changes in relative power between the legislative and executive branches with respect to supplemental appropriations. The pattern of requests for and the enactment of supplemental appropriation bills following passage of the BEA will be examined to identify the major factors that determine supplemental appropriation spending control.

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## I. INTRODUCTION

This thesis is a study of the effect of the Budget Enforcement Act of 1990 (BEA) on spending control exercised in supplemental appropriation legislation. In order to identify and assess this effect, analysis of the supplemental appropriation process both before and after the enactment of the BEA must be conducted. This paper will analyze three separate areas, culminating in a comparison of pre-BEA data to post-BEA data, drawing inferences from this comparison and, finally, reaching conclusions about the impact of the BEA on supplemental appropriation spending control.

The first area that the thesis will address is the supplemental appropriation process prior to the enactment of the BEA. A definition of the term "supplemental appropriation" will be presented, as will the purposes of supplemental appropriations. The supplemental appropriation process will then be contrasted with the normal budget process and an analysis of the supplemental appropriation spending that occurred during the period 1981-1989 will be used to provide a baseline for measuring spending control in supplemental appropriation legislation.

The second area that will be addressed is the supplemental appropriation process following the enactment of the BEA. A chapter of the thesis will be devoted to

presenting the provisions within the BEA that address supplemental appropriations. These provisions will then be contrasted with the manner in which supplemental appropriation legislation was handled prior to the enactment of the BEA. Each supplemental appropriation bill enacted during FY 1991 and one bill initiated for FY 1991 but delayed until FY 1992 will be analyzed in detail. For each bill, its chronology will be outlined, its significant political debate will be highlighted and most importantly, the differences between the presidential request and the final appropriation bill will be explained. This analysis will provide insight into the political dynamics of supplemental appropriation legislation in the BEA era.

Conclusions from these first two topics will then be used to support the third section of the thesis. This section will identify and assess the future implications of the BEA provisions for supplemental appropriations for the Department of Defense. To accomplish this, specific Department of Defense supplemental appropriations from the period of the study will be examined. Further, in this third section, the thesis will discuss the individual supplemental bills in an effort to reach some conclusions. These conclusions will be presented in a concise manner enabling the reader to quickly and easily comprehend the important aspects of the research. Recommendations for future research will also be made in this section.



This analysis is based upon evidence drawn from 46 articles from *Congressional Quarterly*, eleven issues of the Department of the Navy's *Budget Digest*, eight publications issued by the Congressional Research Service, seven publications of the Office of Management and Budget, seven articles from *National Journal*, six letters from Congressional or Administration leaders, five Congressional Budget Office publications, five public laws, five unpublished data tables or reports, four congressional testimony excerpts, one speech transcript and sixteen other published sources.

## II. PRE-BEA SUPPLEMENTAL APPROPRIATIONS

"Congress relies on supplemental appropriations to fund programs and activities that are too 'urgent' to await next year's budget." [Ref 1] One reason that urgent needs arise is because executive branch budget requests are developed and submitted so far in advance of the start of the fiscal year that they may become inaccurate by the time the fiscal arrives. This is particularly evident in programs that are sensitive to changes in the national economy, such as unemployment compensation, where predictive models are often quite volatile. [Ref 2] Further, the problems associated with meeting all of the requirements associated with federal budgets that approach the \$1.5 trillion range, while remaining within the framework of the federal budget process, give rise to additional reasons for supplemental appropriation legislation.

Since the early 1950's, supplemental appropriations have covered funds used for "new and unanticipated needs" as well as those used to cover "agencies that used their funds at too rapid a rate, creating either an actual overobligation (an obligation in excess of available budget authority) or an anticipated overobligation." [Ref 1] An appropriation passed in 1985 to provide funds for urgent support of African famine relief is an example of a supplemental

appropriation for "new and unanticipated needs." The African famine was neither anticipated nor provided for by the original 1985 budget.

On the other hand, supplemental appropriations providing additional funds for the food stamp program passed in the early 1980's are an example of funding for a program whose needs had been anticipated by budget planners. Funds for this program were depleted early by unexpected economic conditions, thus resulting in an anticipated overobligation.

#### **A. THE BASELINE FOR SUPPLEMENTAL APPROPRIATIONS**

To assess the impact of the BEA on spending control within the supplemental appropriation process, a basis for comparison of legislation before and after the enactment of the BEA must first be developed. The baseline period for comparison purposes will be the period from 1981 to 1989. An average ratio for this period will be computed consisting of the supplemental appropriation amounts enacted by Congress divided by the supplemental appropriations requested by the President. Requested and enacted supplemental appropriations for this period are summarized in TABLE 1 below: [Ref 3]

TABLE 1. SUPPLEMENTAL APPROPRIATIONS REQUESTED AND ENACTED, 1981-1989 (in millions of dollars of budget authority net of rescissions)<sup>1</sup>

Year	Requested	Enacted	Enacted- Requested
1981	8,488	6,923	-1,564
1982	19,796	21,020	1,225
1983	16,099	21,123	5,024
1984	16,276	16,222	-54
1985	13,597	14,804	1,207
1986	6,114	2,249	-3,865
1987	12,114	9,370	-2,744
1988	1,050	1,302	253
1989	3,371	5,615	2,244
Total	96,902	98,628	1,726

From the figures found in TABLE 1, the baseline ratio for the period 1981-1989 can be calculated to be 1.018. In other words, for every dollar of supplemental appropriations requested by the President during the 1980's, approximately \$1.02 was appropriated by Congress. As can be seen from TABLE 1, these figures varied widely from year to year, with

<sup>1</sup> The term "budget authority net of rescissions" is defined as that additional budget authority provided for by supplemental bills minus the amount of budget authority rescinded. The data used in the above table excludes rescission requests not considered by the Congress. Some rescissions requested by the President are not included as they are similar to those requested, but not enacted, in previous years or were requested during the regular appropriation cycle for that year and had yet to be acted upon. [Ref 3]

Congress actually appropriating less than that requested by the President on four separate occasions.

In terms of the individual spending items requested by the President during this period, the number of times that supplemental appropriations enacted equalled the President's request totaled 1163. The number of times that they exceeded the request totaled 761. On 510 occasions the enactment was below the administration's request. In dollar amounts before rescissions, total enacted amounts below requests were \$8.6 billion, while those above the requested amount were \$25 billion. [Ref 3]

## **B. SPENDING CONTROL AND THE BASELINE**

These calculations suggest that supplemental appropriation legislation during the period preceding the BEA was generally governed by a considerable amount of political give and take. About half of the individual items requested by the President (48 percent) were agreed to by Congress at the requested level. When not agreed to at the requested level, more often than not, Congress appropriated above the request.

In dollar terms, these additional amounts exceeded the amounts denied the President by a ratio of about three to one. This would indicate that supplemental appropriation requests were used as a vehicle by Congress to increase spending above previously agreed upon budget targets.

Historically, supplemental appropriation bills "have received less scrutiny than the budget for the upcoming fiscal year," thus providing an attractive opportunity for passage of pet projects. [Ref 3] Metaphorically, Pat Towell says, "supplemental appropriations bills loom like sequoias in a forest of legislative Christmas trees that droop with ornaments to meet particular constituents' needs." [Ref 4]

It should be noted that the nature of supplemental appropriations during the 1980's varied from year to year. For example, while most military pay raises during the 1980's were funded by regular appropriation bills, on occasion, supplemental appropriations were used for this purpose. [Ref 3] Because of the changing nature of supplemental appropriation legislation, the use of the 2 percent figure for enacted above requested supplemental appropriations would not be an effective baseline when comparing specific types of supplemental appropriations such as defense or natural disaster expenditures.

Further, the figures used above to provide the baseline lack a certain amount of precision due to the scorekeeping changes that took place in the Congressional Budget Office during the period 1981-1989. [Ref 3] However, the figures do indicate a long term condition where enacted supplemental appropriations exceeded those requested by about 2 percent. Thus, for purposes of this study, the ratio of enacted

supplemental appropriations to requested supplemental appropriations that will serve as a baseline for comparison with the post-BEA supplemental appropriations will be 1.02.

### **III. SUPPLEMENTAL APPROPRIATION PROVISIONS OF THE BEA OF 1990**

The Omnibus Budget Reconciliation Act (OBRA) of 1990, (Public Law 101-508), was signed into law by President Bush on November 5, 1990. The Budget Enforcement Act (BEA) is the term given to Title XIII of this law. The BEA provides special procedures to ensure that the full savings of the OBRA of 1990 are achieved. [Ref 5] The BEA makes significant changes to the procedures by which the executive and legislative branches enact appropriation spending. The budget focus under the BEA shifts from the fixed deficit targets that were a part of the Balanced Budget and Emergency Deficit Control Act of 1985, more commonly known as the Gramm-Rudman-Hollings Act, to limits on discretionary appropriations and the requirement that changes in revenue and entitlement spending be revenue neutral. [Ref 6]

Among the changes brought about by the BEA are two changes affecting supplemental appropriation legislation. The first of these is a requirement that supplemental appropriations must be designated as "emergency" appropriations by both the President and Congress. The second change distinguishes between unspecified "emergency" funding and funding for Operation Desert Shield and any follow-on operations (later to include Operation Desert



Storm). Costs for the Gulf War are considered by the BEA to be emergency requirements without any further action.

However, the "emergency" requirements of the BEA apply to all other supplemental legislation. [Ref 7]

Another change brought about by the BEA was the establishment of spending caps on each of the three discretionary spending accounts - domestic, defense and international. The BEA exempts emergency appropriations from the spending caps by adjusting the caps to accommodate the appropriations:

If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations. [Ref 8]

Implicit in this wording is the fact that supplemental appropriations not so designated would have to be funded from within the caps placed on discretionary spending by the BEA. Further, since Congress was almost certain to fill each discretionary account to the limit of the cap for regular, non-emergency needs, one of three events must occur. First, supplemental appropriations not designated as "emergency" will go unfunded. Second, regular or non-emergency appropriations would be cut to make room for emergency spending that failed to achieve official designation as such. Or third, a mini-sequester would be

enforced to reduce discretionary spending to the BEA cap level.

A mini-sequester is an innovation of the BEA that enables OMB to aim spending cuts at a particular spending category - international, domestic or defense. Under Gramm-Rudman-Hollings, the only tool that OMB had was a general sequester that cut indiscriminately across broad portions of the budget when the fiscal year began in October. The mini-sequester is small enough to be believable and targets the particular spending category that exceeded its spending cap without unfairly penalizing other programs.

The BEA gives OMB two types of sequesters that it can use against supplementals. The "within session" sequester affects supplementals enacted before July 1, and imposes an immediate spending cut, while the "look back" sequester affects supplementals enacted after June 30, and reduces the following year's regular appropriations. [Ref 9]

But the BEA does not provide an unambiguous definition of the term "emergency." The President and the Congress must agree that the "emergency" exists and it must be so designated by Congress in statute. When this agreement is reached regarding an entire supplemental appropriation bill, there is no confusion. However, a broad interpretation of the BEA could result in part of an appropriation, or even a specified amount within an individual account, being designated as "emergency." [Ref 10]

In practice, Congress has used both approaches. Occasionally, Congress has used the broad interpretation by including emergency designation statements in individual paragraphs of the legislation. This occurred in P.L. 102-266, Further Continuing Appropriations Act (Foreign Operations), Fiscal Year 1992. Congress made \$143 million of a \$943 million appropriation for disaster relief funds to the Federal Emergency Management Agency (FEMA) "available only after submission to the Congress of a formal budget request designating the \$143 million as an emergency." [Ref 11]

More often, however, Congress has included a blanket designation that covers various accounts. For example, Public Law 102-27, Dire Emergency Supplemental for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991, states that "All funds provided under this title are hereby designated to be 'emergency requirements' for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended." [Ref 12]

In a twist on the broad interpretation, Congress has, on at least one occasion, designated a particular account as "emergency," but made availability of the funds contingent upon subsequent action by the President. This occurred in a section of Public Law 102-229, Dire Emergency Supplemental

Appropriations Act, Fiscal Year 1992, where Federal Emergency Management Administration funds were involved. An appropriation of \$943 million for disaster relief was made available until expended, of which \$143 million was to be "available only after submission to Congress of a federal budget request by the President designating the \$143,000,000 as an emergency." [Ref 11]

The rules of the BEA state that the President must designate the emergency and that Congress must agree. It is not clear from the BEA what should happen if Congress designates certain appropriations as "emergency" on its own and takes the position that by signing the Bill, the President agrees. [Ref 9] These, and many other questions would be addressed and answered in the months that followed the passage of the BEA.

As a result of the BEA, both the Congress and the President have the ability to, in effect, veto legislation that is not thought to be an "emergency". Congress can negate Presidential requests for emergency spending by refusing to designate them as "emergencies" in statute. Similarly, the President can refuse supplemental appropriations added by Congress to his request and submitted for his signature by withholding his "emergency" designation from the portion to which he objects.

Congress, however, has always enjoyed the authority to ignore individual items in the President's supplemental

appropriation requests. In other words, the BEA does not give Congress any new authority in this area. The President, on the other hand, is given a new ability to "pick and choose his emergencies from the bill's provisions, thus giving him what critics said would be a line item veto." [Ref 13]

This contention would later be borne out in one of the 1991 supplemental appropriation processes:

In a rifle shot attack that would have been virtually impossible a year ago, the administration's Office of Management and Budget (OMB) killed three emergency funding requests for less than \$3 million each by Commerce Department agencies. The money had been included in a House passed version of the 1991 Dire Emergency supplemental spending bill. OMB did it by threatening to levy an across the board spending cut, or mini-sequester, against other domestic discretionary spending programs if Congress tried to count the Commerce Department money as emergency spending, exempt from budget limits. Cowed, Congress backed down. [Ref 9]

Senator Patrick Leahy, D-Vt., concluded that "OMB has by the stroke of a pen put in a line item veto." [Ref 9] To which one White House Official commented, "It's a whole new ball game." [Ref 9]

Yet despite the new provisions instituted by the BEA to control supplemental appropriation spending, the "emergency" designation might allow the White House and Congress to circumvent the spending limits that were enacted as a part of the BEA. [Ref 14] A significant concern of many budget deficit watchers was expressed by Carol G. Cox, President of the Committee for a Responsible Federal Budget: "A likely

outcome might be that each side agrees to accept the other's emergency spending in order to get what it wants." [Ref 13] Clearly, as BEA requirements become more challenging, increased use of the "emergency appropriations" safety valve may be encountered.

The next four chapters of this study will focus on the individual supplemental appropriation bills enacted in 1991. An analysis of these four bills will be used to determine whether or not the BEA resulted in an increased level of supplemental appropriation spending control.

#### **IV. FY 1991 SUPPLEMENTAL APPROPRIATION NUMBER 1: THE "DIRE EMERGENCY" SUPPLEMENTAL**

The first supplemental appropriation passed under the BEA's new rules governing supplemental appropriations was the "Dire Emergency" spending bill (Public Law 102-27). It was referred to as a dire emergency supplemental bill as a result of an agreement at the 1987 budget summit that supplemental appropriation bills would only be used "in the case of dire emergencies." By CBO scoring, it consisted of \$5.45 billion in appropriations, \$1.7 billion in "emergency" funds and \$3.75 billion in "non-emergency" funds [Ref 15] designed to pay for the "indirect costs of the Persian Gulf War and other matters that Congress felt could not wait for the 1992 appropriations cycle." [Ref 16]

##### **A. CHRONOLOGY OF EVENTS**

On February 21, 1991, the President submitted to Congress his request for supplemental appropriations for actions related to the Persian Gulf War. The request was for \$2.85 billion, of which \$89.75 million was requested as "emergency" funding and \$2.76 billion was requested as "non-emergency" funding. The president designated the following non-defense items as "emergency": the State Department and related agencies for the Voice of America and evacuation of

employees, security, travel, and communications; various law enforcement agencies to counter terrorism; and the Panama Canal Commission for increased traffic through the canal zone. [Ref 12]

On March 7, 1991, the House of Representatives approved HR 1281, the "Dire Emergency" supplemental bill by a vote of 365-43. This bill was the House's response to the President's request for funds for actions related to the Persian Gulf War. The House measure called for \$4.24 billion in supplemental appropriations, of which \$1.13 billion would be designated as "emergency". The significant disparity in the requested versus House-passed funding was due to a House-included provision for \$650 million in aid to Israel, \$333 million in "emergency" defense funds and \$58 million in veterans benefits that the President had not requested. [Ref 17]

On March 13, 1991, the House approved HR 1175, a supplemental appropriations bill that incorporated a generous veterans and military benefits package. It passed by a vote of 398-25. The bill carried a \$1.4 billion price tag over 5 years and provided a variety of health, housing, education and other benefits for not only Gulf War veterans, but other veterans and military personnel as well. Further, HR 1175 included language that would require the President to declare all of the spending "emergency". At the time of approval of HR 1175, the President had already warned that



he would veto the measure due to its high costs. The prime reason for this veto threat was the administration's concern over greatly expanded GI education benefits that were contained in the package. [Ref 18]

On March 14, 1991, the Senate Appropriations Committee approved S 578, its own version of HR 1175, the military benefits package. The Senate bill had a five-year cost of about \$500 million and passed by a vote of 97-1. While this version also proposed no offsets in funding and was designated as "emergency" spending, it had been drafted with bipartisan input and enjoyed White House backing. While the House used two separate appropriations bills, the Senate Appropriations Committee included its veteran's benefit package within its bill for war-related and other "dire emergency" spending (in effect combining HR 1175 and HR 1281). [Ref 18] The Senate Appropriations Committee package called for a total of \$5.23 billion in appropriations for various programs. [Ref 19]

Shortly after the House approved the \$650 million in aid for Israel included as part of HR 1281, representatives of Turkey approached the Bush Administration requesting a similar amount. After some discussions between the Director of the Office of Management and Budget, Richard Darman, and Senator Byrd (D-WV), the administration agreed to request \$200 million in "emergency" aid for Turkey and, further, to

formally request the \$650 million in "emergency" aid for Israel.

By the time the Senate approved S 578, the total administration request had been expanded to \$3.7 billion as a result of the requests for emergency funding for aid to Israel and Turkey. Of this amount, \$940 million was designated "emergency". Of the \$5.23 billion approved by the Senate, \$1.03 billion was designated as "emergency". Additionally, \$500 million approved for "emergency" military benefits was to be provided from the Defense Cooperation Account.<sup>2</sup> [Ref 20]

A flurry of activity rapidly concluded congressional action on these measures as Congress succeeded in approving the measures before the spring recess. On March 21, 1991, a House-Senate compromise was reached on the veteran's package. The conferees agreed to a cost of \$655 million over five years, the largest loser being the GI educational benefits provision of the House measure (HR 1175). The full Senate approved the veteran's benefits compromise measure (S 725) later that day by voice vote. The House approved the measure by a vote of 396-4 the same day. On March 22, 1991, the funding for the veteran's benefits and the other "Dire Emergency" programs were appropriated in HR 1281 by

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<sup>2</sup> The Defense Cooperation Account was a fund that contained allied financial contributions to the Persian Gulf War. It was drawn upon in each of the four supplemental appropriation bills that were initiated in 1991. [Ref 20]

voice vote in the Senate and by a vote of 340-48 in the House.

Under an agreement between the Administration and Congress, spending for veteran's and military benefits was designated as "emergency" and excluded from the existing budget caps. [Ref 21] Of the \$5.45 billion total appropriated for the "Dire Emergency" supplemental, \$3.7 billion had been requested by the President. This \$5.45 billion included \$1.7 billion in "emergency" spending, compared to the administration's request for only \$939.7 million in "emergency" spending, \$4.1 billion in "non-emergency" spending and \$396 million in rescissions in international spending. [Ref 22]

President Bush signed Public Law 102-27, Dire Emergency Supplemental Appropriation For Consequences Of Operation Desert Storm/Desert Shield, Food Stamps, Unemployment Compensation Administration, Veterans Compensation And Pensions And Other Urgent Needs Act Of 1991, on April 10, 1991. Public Law 102-27 was the consummation of HR 1175, HR 1281, S 578 and S 725.

## **B. DIFFERENCES BETWEEN ENACTMENTS AND REQUESTS**

The 1991 "Dire Emergency" supplemental appropriated \$5.45 billion for emergency and other funds. This was \$1.75 billion greater than the \$3.7 billion requested by the President. In other words, this resulted in a ratio of 1.47

enacted to requested funds. With respect to "emergency" funds within the bill, the President's request of \$939.7 million was raised to \$1.7 billion.

However, \$655 million in veterans benefits were funded from the Defense Cooperation Account, leaving the amount of "emergency" funding to be provided by the United States Treasury at \$1.03 billion. Congress appeared to be using the Defense Cooperation Account to expand the available "emergency" fund base, thereby circumventing the discipline of the BEA. These funds, exempt from the budget caps of the BEA, had an enacted to requested ratio of 1.1. TABLE 4-1 breaks down the funds into categories by department. It does not include amounts transferred from other accounts that do not add to the cost of the bill. [Ref 22]

**TABLE 4-1 DIRE EMERGENCY SUPPLEMENTAL FUNDING**  
Budget Authority of HR 1281 in millions of dollars

	President's Request	House Passed	Senate Passed	Final Bill
<b>EMERGENCY</b>				
Defense	-----	\$333.6	-----	-----
Commerce	-----	7.4	\$0.9	\$17.9
Veterans	-----	58.0	37.0	37.0
Justice	\$7.7	7.7	7.7	7.7
State	53.4	54.4	53.4	53.4
District of Columbia	3.6	3.6	3.6	3.6
Funds appropriated to the President (includes aid to Israel and Turkey)	856.0	656.0	856.0	856.0
Legislative Branch	12.1	7.1	7.9	7.4
Treasury	2.0	2.0	2.0	2.0
Military Benefits*	-----	-----	550.0	705.0
<b>Subtotal</b>	<b>939.7</b>	<b>1129.8</b>	<b>1528.5</b>	<b>1690.0</b>
<b>NON-EMERGENCY</b>				
Defense	-----	407.5	-----	150.0
Commerce	-----	-2.1	-12.5	-11.4
Veterans	303.1	303.1	962.6	962.6
Justice	9.2	11.2	16.2	15.8
State	8.0	8.1	8.1	8.1
District of Columbia	-----	100.0	100.0	100.0
Legislative Branch	-----	0.1	0.1	0.1
Judiciary	79.9	79.9	78.3	79.1
Interior	-----	30.0	20.0	25.0
Energy	623.0	603.1	623.1	623.1
Health and Human Services	232.0	232.0	249.0	249.0
Agriculture	1511.0	1567.9	1569.3	1569.3
Transportation	14.5	14.5	34.5	34.5
Housing and Urban Development	-17.5	-45.0	-45.0	-68.0
<b>Subtotal</b>	<b>2763.2</b>	<b>3110.3</b>	<b>3703.7</b>	<b>3756.8</b>
<b>Total</b>	<b>3702.9</b>	<b>4240.1</b>	<b>5232.2</b>	<b>5446.8</b>

\*All but \$50 million to be transferred from the Defense Cooperation Account

Of the 64 individual items either requested by the President, enacted by the Congress or passed by one or both houses of Congress, only seven had funds enacted that were less than requested by the President<sup>3</sup>. The dollar total for these seven items was \$768.8 million. Congress exceeded the President's request on 30 items, for a total of \$1,383.9

<sup>3</sup> The 64 items do not include items whose funds were transferred from other accounts and, thus, did not add to the bill's dollar total.

million. Further, Congress did not accept, or fully accept, presidential rescission requests in seven cases totalling \$491.7 million, and enacted one rescission for \$24 million that the President did not request. On 19 items the amount appropriated by Congress matched the amount requested by the President. [Ref 22]

Congress funded six items not requested by the President by transferring funds from either the Defense Cooperation Account or from other accounts. These transfers helped push the bill total to \$5.45 billion. They are also part of the difference between the appropriated and requested dollar amounts.

But the largest difference between the request and the final congressional appropriation is found in funding for military benefits. The President had requested no funds for this purpose, while Congress appropriated \$705 million. Of the \$705 million, \$655 million was transferred from the Defense Cooperation Account as a result of the compromise reached between House and Senate committee members.

Other items that were appropriated funds in significant excess of that requested by the President were (dollar amounts appropriated above the request shown in parens): Defense, Operations and Maintenance and Research and Development (\$100 million), District of Columbia, Essential Municipal Services (\$150 million), Veterans Compensation Pensions (\$409.5 million) and Housing and Urban Development,

Public Housing Operating Subsidies (\$75 million). In addition, rescission reductions of \$263.3 million for Housing and Urban Development Public Housing and \$135 million for the Housing and Urban Development Rehabilitation Loan Fund enacted by Congress further significantly contributed to the disparity between appropriations and requests. [Ref 22]

These effects were offset to some degree by Congress' refusal to provide funds for Housing and Urban Development HOME Investment Partnerships (\$500 million), HOPE Grants (\$165 million) and Homeless Rental Housing Assistance (\$80 million). In the other four areas that Congress "saved" money, the appropriated amount was a total of \$23.8 million less than the amount requested by the President. [Ref 22]

As with the period before the passage of the BEA, the first supplemental enacted after its passage exhibited several traits that suggest that the supplemental appropriation process was going to be used as a vehicle to attain funding otherwise unavailable for parochial congressional projects. For example, when Congress appropriated more for individual items than the President requested, this total dollar amount appropriated was greater than the total dollar amount appropriated below his individual item requests. The ratio was, in fact, almost two to one. This is a slight improvement from the nearly

three to one ratio of 1981-1989, though it still indicates a trend towards supplemental appropriation inflation.

Similarly, in terms of individual items, when Congress did not agree with the President's request, it was more likely to appropriate more than the requested amount. In fact, this ratio rose dramatically from about 1.5 to one in the period 1981-1989, to more than four to one in the "Dire Emergency" Supplemental Appropriation Bill.

Further, the 1.47 ratio of enacted to requested funds for the "Dire Emergency" supplemental, when compared to the 1981-1989 baseline of 1.02, would indicate a worsening trend. This trend was somewhat mitigated by the administration's policy of playing hardball in the use of its "emergency" designation.

Despite these continuing, and in some cases worsening, trends, evidence of congressional restraint in supplemental appropriation spending is easily found in a review of the political debate that accompanied the bill.

## C. SIGNIFICANT POLITICAL DEBATE

On the whole, Public Law 102-27, the "Dire Emergency" Supplemental, was a victory for those in Congress and the administration who wished to restrain supplemental appropriation spending. Warned that the administration was likely to withhold "emergency" designation from a variety of items included in the congressional bills, and that spending



above the BEA ceilings would eventually trigger automatic cuts, House and Senate conferees agreed to trim their spending plans. Once the White House was satisfied that it had gotten virtually everything that it had asked for, the strong veto threat that Office of Management and Budget Director Darman had issued was dropped. [Ref 22]

A comparison of the initial House-passed legislation with the Senate-approved measure shows several significant differences between the two bills. Overall, the Senate version was \$882 million larger than the House bill because the Senate combined veterans benefits with war-related and other emergency requirements into a single bill, while the House used two bills for this purpose. If the \$1.4 billion HR 1175 bill for military benefits is included, then the House version is \$518 million more costly.

The Senate desired higher spending than the House on 16 different items, and the House desired more than the Senate on 14 items. [Ref 22] While this would seem to be a fairly even disposition that might lead to an equitable compromise in the conference committee, the results of the conference were decidedly in the Senate's favor.

Of the 30 items on which the House and Senate disagreed on funding levels, the Senate value was reported out of conference 20 times, and the House value just once. The appropriated amount was a compromise between the two figures

in eight instances.<sup>4</sup> Oddly enough, one of the appropriated amounts agreed to in conference exceeded both the House and Senate versions. [Ref 22] Clearly, the Senate version of the "Dire Emergency" supplemental, which, as previously described, had bipartisan formulation and administration support, won the conference committee battle.

Several House programs were cut in their entirety when the two bills went to conference. Included among these were all Commerce Department "emergency" proposals (\$6.4 million) and all Department of Defense "emergency" proposals (\$323.6 million).

On the other hand, several Senate programs that had not received any House funding were reported out of conference at or above the full Senate amount. These included: "emergency" aid to Turkey (\$200 million), "emergency" funding for the Customs Service (\$1.8 million), the "emergency" military benefits package (\$705 million),<sup>5</sup> vaccine injury compensation (\$17 million) and veterans readjustment benefits (\$250 million). Additionally, the Senate veterans benefits and compensation package (\$712.6

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<sup>4</sup> The military benefits package is being considered a compromise as it appropriates funds with a value between the Senate provision of \$500 million and the \$1.4 billion provided in HR 1175.

<sup>5</sup> If the \$1.4 billion HR 1175 bill is considered an integral part of these conference negotiations then the military benefits item would not be considered in this category, but would be a compromise that closely approached the Senate value.

million) replaced the House version (\$303.1 million).

[Ref 22]

The Administration enjoyed "unaccustomed success in knocking spending items out of the supplemental." [Ref 9] Among these were appropriations included by the House to fund three "emergency" items sought by Commerce Department agencies. At the outset of the Gulf Crisis, some agencies, including the Commerce Department, began withdrawing their people out of embassies in the Middle East. Still others began providing services to the Department of Defense related to Operation Desert Shield/Desert Storm. Congress had agreed with the agencies that these costs were legitimate war-related expenses and that as such they should not come out of their existing budgets.

The White House disagreed. OMB threatened a mini-sequester if Congress tried to count the money as "emergency" spending, exempt from the budget limits. The threatened measure was not needed, however, as Congress agreed to eliminate all of the questionable expenditures during the conference. [Ref 22]

Similarly, OMB was able to eliminate a dairy provision that Senator Patrick Leahy (D-Vt) had tried to attach to the "Dire Emergency" supplemental. The dairy provision was proposed as an "emergency" requirement in accordance with the BEA, and thus would have required no spending offsets to

avoid a mini-sequester. It was dropped from the final bill at White House insistence.

These two actions led Representative Neal Smith (D-Iowa), Chairman of the Commerce, Justice, State Appropriations Subcommittee, Representative David Obey (D-Wis) and Senator Leahy to complain bitterly about the new administration clout. "It is going to be very easy for OMB to threaten sequestration every time they don't like something Congress wants to do. We didn't elect presidents to be kings," Representative Obey said. [Ref 9]

Some members of Congress attempted to limit the use of the "emergency" designation in favor of offsetting the costs of congressional additions to the supplemental bill. These efforts were not successful. Representative Leon Panetta (D-Calif) and Representative Will Gradison, Jr (R-Ohio) submitted an amendment to remove the "emergency" designation from the veterans bill and force Congress to offset the costs. The measure failed 175-248. [Ref 13] Yet even in failing, the fact that a relatively close vote occurred on a popular veterans program measure in a time of patriotic fervor, led many to believe that the "emergency" requirement might eventually rein in supplemental appropriations.

Other House spending that did not enjoy Administration support was also stripped out of the bill in conference. The House had sought \$224 million in funds to procure 342 Patriot missiles beyond the numbers used in the Gulf War.

The final bill eliminated this money as well as other House-approved defense funding that totalled nearly \$600 million. Slightly over half of this eliminated spending had been designated by the House as "emergency". [Ref 22]

Despite OMB's apparent new clout in supplemental matters, the "Dire Emergency" bill demonstrated that Congress was anything but powerless. In fact, the overt action taken by OMB to eliminate small proposals here and there pales in comparison to the areas in which the White House backed down.

For example, aid for Israel and Turkey had been pointedly left out of the administration's initial request for Desert Storm-related supplemental appropriations. The money proved popular in the House, however, surviving an effort by Representative Tim Valentine (D-NC) to eliminate the money after it had been included in the bill. Valentine's measure failed overwhelmingly by a 24-397 vote.

When \$850 million was appropriated for Israel and Turkey by the House and Senate, OMB agreed to score these funds as "emergency" spending. [Ref 9] This avoided a confrontation with Congress over aid to staunch allies while further preventing the international discretionary appropriations category from exceeding its cap which would have required the State Department to cut aid to other countries. Congress accomplished this by going public with their plans, giving the White House as its only alternative a rejection

of the aid, which may have hindered Baker's efforts in the Mideast. [Ref 9]

Another example showing that Congress still had supplementary appropriation clout was demonstrated by the success that Congress enjoyed in providing funds for the states to handle unemployment insurance claims. The Administration's original "non-emergency" request of \$100 million was raised to \$200 million by the House and settled in informal discussions between the House and Senate leadership at \$150 million. While negotiations were under way between the House and the Senate, OMB agreed to score the \$150 million as "emergency" funding. [Ref 16] Indeed, House Republicans seemed dismayed at OMB's willingness to negotiate on matters in the Senate or in conference that they had said they would never call an emergency when the subject arose in the House. [Ref 22]

Congress' leverage was further demonstrated when Representative Smith warned that he would consider including language in the next regular appropriations bill prohibiting Commerce Department agencies from doing any work for the Department of Defense before receiving payment. This was in response to the White House's refusal to designate as "emergency" the Commerce Department funds that Smith had felt were justifiable Gulf War expenses. Further, he said he might get OMB's attention by slashing funds for something that the Administration wanted. [Ref 9]

The BEA had given the President new means by which he could control supplemental appropriation spending. However, this power was not effectively exercised by the White House. The "unaccustomed success" that the White House enjoyed on this bill did not yield significant results, as the Administration appeared willing to back down on some significant items for the sake of political expediency.

As George Hager stated:

In the final analysis, the restraining hand of the White House appeared throughout the scores of provisions, scaling back many of the lawmakers' more ambitious attempts to spend money....[Yet despite this apparent control], the lesson seems to be that OMB's authority over emergency spending is not absolute, especially when it comes to high profile items. "They've got more power on the smaller things than they do on the bigger, more visible things," says Stan Collender, Director of Federal Budget Policy for Price Waterhouse. [Ref 22]

An analysis of the second supplemental appropriation enacted following the passage of the BEA will serve to reinforce or refute the apparent erosion of supplemental appropriation spending control apparent in the "Dire Emergency" supplemental appropriation bill when it is compared with the 1981-1989 baseline. The next chapter will examine this second bill.

## **V. FY 1991 SUPPLEMENTAL APPROPRIATION NUMBER 2: THE "OPERATION DESERT STORM" SUPPLEMENTAL**

The second supplemental appropriation to be passed during 1991 was the Desert Storm spending bill (Public Law 102-28). It progressed through Congress largely hand-in-hand with the "Dire Emergency" supplemental (Public Law 102-27). By CBO scoring, the Desert Storm supplemental consisted of \$42.626 billion in "emergency" appropriations. [Ref 23] It was designed to pay for the Persian Gulf War.<sup>6</sup> [Ref 24]

### **A. CHRONOLOGY OF EVENTS**

On February 22, 1991, the President requested \$15 billion in United States funds, as well as authority to appropriate \$52.5 billion in contributions expected from other nations, for the war with Iraq. In a February 28, 1991, markup, the House Defense Appropriations Subcommittee

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<sup>6</sup> Future supplemental appropriation bills would make "adjustments" to the amount appropriated under the Desert Storm supplemental. These adjustments would be for changes in the costs attributable to the Persian Gulf War that were covered by the Desert Storm supplemental. In the case of supplementals where such "adjustments" were made, these "adjustments" will not be considered as "new" appropriations. Only Desert Storm-related appropriations which changed the scope of the funding from that called for in the Desert Storm supplemental will be considered in the calculation of the enacted to requested ratio.



approved the \$15 billion but limited the remainder to \$28 billion after a careful review of the request for items that the Administration submitted as legitimate "incremental" costs of the war.<sup>7</sup> [Ref 25]

On March 7, 1991, the House of Representatives approved HR 1282, the Operation Desert Storm supplemental bill by a vote of 380-19. The \$42.588 billion passed by the House was designed to provide a "down payment" on costs that were expected to escalate if actual combat costs were proven to have been more than estimated. Funding for the war was expected to come, if at all possible, from foreign contributions. But HR 1282 gave authorization for the \$15 billion in U. S. funds requested by the President as a "bridge loan" until it could be replaced by foreign contributions. [Ref 17]

On March 14, 1991, the Senate Appropriations Committee approved HR 1282 with only minor changes [Ref 19] and the full Senate approved the bill on March 19, 1991, by a vote of 98-1. [Ref 24] As with HR 1281, the "Dire Emergency" supplemental, HR 1282 rapidly came to fruition as the spring recess approached, with the House-Senate conferees reporting out the final version of the bill on March 21, 1991. The

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<sup>7</sup> The term "incremental" is described in the BEA as those costs that were incurred above those that would have been incurred had no deployment been made to drive Iraqi forces from Kuwait. It was the "incremental" costs of the Persian Gulf War that were to be considered "emergency" under the BEA. [Ref 8]

conference committee report called for \$42.667 billion to cover the "incremental" costs of the Persian Gulf War. In accordance with the BEA, these funds would be considered "emergency". Like the House version, the conference report provided for the President's \$15 billion "bridge loan", with the United States' costs eventually being covered by foreign contributions. [Ref 24]

The conference agreement on HR 1282 was adopted on March 22, 1991, by a vote of 379-11 in the House and by a voice vote in the Senate. [Ref 17] The President signed Public Law 102-28, Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991, into law on April 10, 1991.

## **B. DIFFERENCES BETWEEN ENACTMENTS AND REQUESTS**

The 1991 Operation Desert Storm supplemental appropriation bill provided \$42.626 billion in "emergency" funding for the Persian Gulf War. The President had requested \$15 billion in United States funds to create a Persian Gulf Regional Defense Fund. These were the funds that were to act as a "bridge loan" until foreign contributions could replace them. They were expected to be replaced by contributions to the Defense Cooperation Account by our allies. He had also requested authority for the Secretary of Defense to transfer up to \$52.5 billion in additional funds from amounts deposited in the Defense

Cooperation Account to cover the "incremental" costs of the Persian Gulf War. [Ref 23] Using this as a basis for determining the ratio of enacted appropriations to requested appropriations yields a ratio of 1.0 as the President requested the "incremental" costs and Congress appropriated those same costs.

### C. SIGNIFICANT POLITICAL DEBATE

The Desert Storm supplemental bore significant White House shaping. As with the "Dire Emergency" supplemental, the White House was again more successful in achieving its goals than might have been expected. However, the White House's success in this case had little to do with the threat of mini-sequesters, since the entire bill was by definition "emergency" spending in accordance with the BEA. This was due to the statutory language of the BEA that considered costs for the Persian Gulf War to be emergency requirements without further action.

Instead, the pressure to keep the bill free of add-ons was a result of public support for the White House's handling of the Persian Gulf War. To quote one observer: "Members [of Congress] were loath to be seen obstructing the Desert Storm bill, so the Bush administration was unusually successful in pressuring conferees to pare back Congressional add ons." [Ref 24]

There was relatively little significant political debate in either the House or Senate prior to voting on this supplemental. [Refs 11,24] Most in Congress, including those members initially opposed to the Gulf War, had agreed in February to raise no obstacles to fully financing the Gulf War. [Ref 26] The two bills were largely identical in language and required the Pentagon to give the House and Senate Armed Service Committees seven days notice before allocating the funds which Congress would appropriate. This notice would indicate the amount involved and the purpose for which it was intended. [Ref 19]

This requirement for notification was a concession to those in Congress who were skeptical of Pentagon intentions. Congressional skeptics scrutinized the bill to ensure that there was no effort by the Department of Defense to pad the bill with spending for programs not related to the Persian Gulf War. The skeptics had some reason to be concerned. The initial \$6.4 billion request for procurement that the Department of Defense had submitted on March 1, 1991, as Operation Desert Storm "incremental" costs raised eyebrows in Congress when the individual items in this request neatly dovetailed with the Pentagon's earlier regular budget request.

For example, in 1990, the Pentagon had projected the need to acquire 19,760 TOW anti-tank missiles, 600 Tomahawk cruise missiles and 440 Patriot missiles in 1991. But the

1991 budget request submitted by the Pentagon asked for only 10,000 TOW missiles, 236 Tomahawk missiles and no Patriot missiles. [Ref 27] The \$6.4 billion Desert Storm supplemental procurement request asked for funding of 9,600 TOW missiles, 400 Tomahawk missiles and 500 Patriot missiles. [Ref 27] These figures brought the total Pentagon request close to the initial projections.

It appeared to some in Congress that the Pentagon was playing a game of hide and seek on funding using the Desert Storm supplemental as cover. The perceived intent of the Pentagon was reinforced by the fact that only 150 Patriot missiles had been used to that point in the Gulf War. The Pentagon reduced its \$6.4 billion procurement request to \$2.9 billion [Ref 27], causing skeptics to become even more vigilant.

One result of these fears was the previously discussed notification of Congress requirement. A second result of congressional fears about Pentagon intentions was HR 586. By a vote of 393-1 on February 21, 1991, the House passed a requirement that the President make monthly reports to Congress of United States costs from the Gulf War and allied contributions made to offset these costs. Initially opposed by the White House, a compromise was reached on the wording to require that "incremental" costs of specific categories be reported as well as amounts promised and delivered by other countries. [Ref 26]

As previously described, there was little debate on HR 1282 prior to its passage. Most members of Congress steered clear of anything politically controversial. One member who proved to be an exception to this rule was Senator Byrd (D-WV). Prior to Senate passage, he renewed earlier criticism of allied governments that were too slow in providing their pledged contributions. The Senate version of the bill reflected his opinion and included a provision that barred sales of arms to any country that had not made their promised contributions. [Ref 24]

The White House objected to this wording with OMB stating, "there can be delays caused by U.S. action or inaction." This referred to the fact that some foreign payments were pegged to specific Pentagon cost calculations. Demonstrating the influence of the White House, conferees responded by changing the wording to state that arms sales were banned to any country "that has not fulfilled its commitment." This wording eliminated the wording that the White House had found objectionable while allowing Senator Byrd to advise his colleagues that "it means the same thing [as the earlier wording]." [Ref 24]

There were two areas in which the House and Senate versions of HR 1282 differed. In the first, the House attempted to include increased fuel costs for Department of Defense activities outside of the forces in the Persian Gulf within this supplemental. The Senate, however, disapproved,

and in the conference report these costs were allowed to be funded from the use of foreign contributions but not U.S. funds. [Ref 12]

In the second, the Senate refused to count as appropriate improvements to the Virginia telephone system that the House had included, feeling that they were not reasonably attributable to Operation Desert Shield/Desert Storm. In the conference report this measure was adopted but at a reduced level of funding. [Ref 12]

Of the eight major categories of spending spelled out in HR 1282, the House and Senate agreed on spending levels for three.<sup>8</sup> In the Personnel, Operations and Maintenance, Procurement and Research and Development categories, the House figure was greater than the Senate figure. On the Combat Operations item, the Senate funding was greater than that of the House. The individual differences and their cumulative result were small. [Ref 24]

In the cases of Operations and Maintenance, Personnel and Combat Operations, the conferees reached agreement about midway between the two values. In the Procurement as well as the Research and Development categories, the final conference report called for more funds than either of the original bills. [Ref 24]

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<sup>8</sup> The spending categories of HR 1282 can be broken down into the following: Personnel, Operations and Maintenance, Procurement, Research and Development, Revolving Funds, Combat Operations, Military Construction and Coast Guard Operations.

Yet another success for the White House was the exclusion in the final bill of a Senate-passed provision which barred transfers of captured or deployed weapons to other countries without approved legislation. However, in keeping with then-existing arms sales laws, the bill did require that Congress be notified prior to transfer or sale of any U.S. or captured equipment, thus allowing Congress to block any transfer by enacting a joint resolution. [Ref 24]

Politically, the White House enjoyed considerable success in limiting congressional spending in Public Law 102-28. But this success was largely due to the perceived public pressure felt by the legislators to support the Administration's proposal, rather than the new authority enjoyed by the President to control supplemental appropriations. As a House Democratic aide said, the Democrats wanted to keep the bill so clean that it was "sterile" to avoid the charge that the democrats converted a must-pass bill for war "into a traditional Congressional Christmas tree." [Ref 25]

The Desert Storm supplemental is a special case among the supplementals taken up by Congress during 1991. It was exempt from the BEA caps on discretionary spending categories as provided by the language in the BEA. Both the Congress and the Administration felt compelled to keep it clean. That is, both wished to avoid abusing the privileged status that the supplemental had. Congress did have to



exercise vigilance to prevent the Department of Defense from converting the supplemental into an alternate method of funding defense requirements. As a high-profile, statutorily defined emergency, this bill received special treatment by both lawmakers and the executive branch.

An analysis of the third supplemental appropriation bill enacted following the passage of the BEA should provide evidence as to whether or not the BEA enhanced spending control in supplemental appropriations. Chapter VI examines the third supplemental appropriation bill enacted following the passage of the BEA.

## **VI. FY 1991 SUPPLEMENTAL APPROPRIATION NUMBER 3: THE "HUMANITARIAN ASSISTANCE" SUPPLEMENTAL**

The third supplemental appropriation enacted during FY 1991 was the so-called "Humanitarian Assistance" supplemental. The official title of this bill is the Dire Emergency Supplemental Appropriations From Contributions Of Foreign Governments And/Or Interest For Humanitarian Assistance To Refugees And Displaced Persons In And Around Iraq As A Result Of The Recent Invasion Of Kuwait And For Peacekeeping Activities And Other Urgent Needs Act Of 1991, Public Law 102-55. By CBO estimates, the Humanitarian Assistance supplemental appropriated \$572 million largely to help pay for assistance to refugees in northern Iraq displaced by the Persian Gulf War. Of this amount, \$337 million was attributed to defense discretionary appropriations, and \$236 million went to international discretionary appropriation accounts. [Ref 28]

This supplemental included language stating that "Funds made available in this Act, being incremental costs of 'Operation Desert Storm' or offset, similar to the items of the Dire Emergency Supplemental Appropriations Act, Public Law 102-27, and the Operation Desert Shield/Desert Storm Supplemental Appropriation Act, Public Law 102-28, are off-budget." [Ref 29] The emergency Desert Shield costs

exception of the BEA is stretched in this case by the inclusion of international assistance funds within the notion of "incremental" costs of the defense effort in the Persian Gulf. [Ref 28]

The bill included only costs for the military's role in the Iraqi relief operation through the end of May, 1991. Senator Byrd predicted that "We're going to be there well beyond May, certainly into summer....before we can extract ourselves," opening the door for future supplemental appropriations measures.

## **A. CHRONOLOGY OF EVENTS**

On April 11, 1991, the Senate approved by voice vote a resolution (S Res 99) urging "sustained humanitarian relief" for Iraqi refugees. [Ref 30] On April 18, 1991, the Senate approved a Kurdish relief bill (S 786) authorizing \$50 million to aid the Kurds. [Ref 31]

On April 23, 1991, the House Foreign Affairs Committee marked up legislation authorizing a supplemental appropriation of up to \$400 million for aid to Iraqi refugees and \$25 million in increased spending authority for the State Department's emergency refugee account, two days before the administration had even submitted a request for this purpose. On April 25, President Bush requested \$150.5 million in supplemental appropriations to fund "Operation Provide Comfort", the administration's Iraqi refugee relief

effort. The administration also requested the transfer of "such sums as may be necessary.... [to meet] incremental costs of humanitarian assistance" from the Defense Cooperation Account. The administration requested that these transfers be free from congressional approval.

[Ref 32]

On May 9, 1991, separate versions of HR 2251, the "Humanitarian Assistance" supplemental appropriation bill, were passed in the House and the Senate. The Senate version called for \$556 million in "emergency" funding, \$16 million lower than the House version. It also included several amendments as well as a number of subtle yet significant distinctions from the House bill. [Ref 33] The House bill was passed with minimal debate by a vote of 384-25 in the House and by a voice vote in the Senate.

Following a week of unsuccessful informal talks attempting to iron out differences between the two bills, the Senate appointed on May 15, conferees to a committee on the bill. The House followed suit on May 20, 1991.

[Ref 34] On May 22, 1991, the conference committee report on HR 2251 was approved by both houses in a vote of 387-33 in the House, and by a voice vote in the Senate. [Ref 35]

HR 2251 appropriated \$572 million in "emergency" funds, divided between international and defense discretionary accounts. International discretionary spending included \$143 million for Refugee Aid, \$67 million for International

Disaster Assistance, and \$25.5 million for International Peacekeeping Activities. Defense received \$2 million for Military Personnel, \$318.5 million for Operations and Maintenance and \$16 million for Military Relief Societies. The \$235.5 million appropriated for international discretionary spending was to be drawn from the Defense Cooperation Account or interest payments deposited to the credit of the account. Funds in the supplemental for the Department of Defense were to be provided by the Persian Gulf Regional Defense Fund, with the exception of the aid to military relief societies, which was only to be taken from interest payments credited to the Defense Cooperation Account. [Ref 29]

The President signed the "Humanitarian Assistance" supplemental into law on June 13, 1991.

## **B. DIFFERENCES BETWEEN ENACTMENTS AND REQUESTS**

The third supplemental appropriations bill enacted following the passage of the BEA was triggered by the President's request for \$150.5 million in supplemental appropriations for international discretionary funds replenishment. This request included an "indefinite" appropriation for the "incremental" costs of the Department of Defense for Operation Provide Comfort, to be funded by the Persian Gulf Regional Defense Fund. In response to this request, Congress appropriated \$235.5 million for

international discretionary funds replenishment and another \$336.5 million for the Department of Defense in "incremental" costs for the Persian Gulf War. [Ref 36]

Using logic similar to that used in the analysis of the Operation Desert Storm supplemental, the Department of Defense funding was provided on a precisely one to one ratio to that which was requested. The President requested authority to fund further "incremental" costs of Operation Desert Storm. These "incremental" costs had been previously defined in the Operation Desert Storm supplemental and were statutorily covered by the BEA. The President needed only to request their appropriation.

Thus, \$572 million was appropriated by Congress, \$235.5 million for international discretionary funds replenishment, \$320.5 million for the "incremental" costs of the Persian Gulf War and \$16 million in support for organizations that aided servicemen. This compared to \$471 million requested by the President, \$150.5 for international discretionary funds replenishment and \$320.5 for the "incremental" costs of the Persian Gulf War. The enacted to requested ratio, therefore, can be calculated to be 1.21.

Specifically, of the four items<sup>9</sup> addressed in the international section of the bill, the contributions for

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<sup>9</sup> The four individual international accounts specified in HR 2251 were Department of State International Peacekeeping, Migration and Refugee Assistance, United States Emergency Refugee and Migration Assistance and the Agency for International Development, International Disaster Assistance.

International Peacekeeping and United States Emergency Refugee and Migration Assistance were funded at the levels requested - \$25.5 million and 75 million respectively. The International Disaster Assistance category was raised from \$27 million to \$67 million, and the Migration and Refugee Assistance category was raised from \$23 million to \$68 million. [Ref 36]

### C. SIGNIFICANT POLITICAL DEBATE

The influence that the White House had exerted on Congress during the formulation of the "Dire Emergency" supplemental and the Operation Desert Storm supplemental in March, 1991, appears to have waned by May when Congress was acting upon the "Humanitarian Assistance" supplemental. The success that the White House had had in shaping the earlier measures was more limited in this case. The White House and its Congressional allies still enjoyed some success in formulating the bill, but analysts were no longer touting the administration's "unaccustomed success" in getting its way.

Instead, the tone of the analysts indicated less surprise with the outcome. Quoting Congressional Quarterly, "The White House again managed to keep domestic add-ons at bay when Congress approved a \$572 million supplemental May 22, primarily for assistance for refugees in Iraq and elsewhere." [Ref 37] However, it appeared as though there

was little effort by Congress to attempt add-ons in this instance, so White House success is less impressive.

Further, the House of Representatives took a more aggressive stand on its positions regarding this supplemental than it had in the earlier bills. While a compromise position was eventually attained between the House and the Senate, the results of the compromise were much more equitable in this case than in the earlier supplemental bills of the year. In the earlier bills, the Senate position, which was closer to that of the Administration, most frequently prevailed.

Both the House and Senate versions of HR 2251 called for \$235.5 million in appropriations for international discretionary funds replenishment. This was \$85 million more than the administration had requested. However, the House and Senate differed in their methods for obtaining the additional funds. The House called for reducing aid to Pakistan to provide the funds.<sup>10</sup> The Senate, on the other hand, wanted to use the interest that had been accruing in the Defense Cooperation Account and leave the Pakistan aid untouched. The Senate plan was backed by the White House, which had initially proposed financing its \$150.5 million request from the accrued interest as well. [Ref 34]

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<sup>10</sup> \$100 million for economic support fund aid to Pakistan had been passed in FY 1991 contingent upon the administration's ability to certify that Pakistan did not possess nuclear weapons. When this was not possible, the \$100 million became available for other programs.



When presented with this option in conference, the House conferees agreed, seeing the opportunity to possibly use the Pakistan funds for other projects that the House supported. The House did, however, win inclusion of a requirement that the administration notify Congress before reallocating the Pakistan aid. [Ref 29]

Another difference between the House and Senate versions of HR 2251 was the total amount to be appropriated. The House figure was \$572 million, while that of the Senate was \$556 million. The difference was caused by the Senate stripping from its version \$16 million in Persian Gulf Regional Defense Fund interest intended to support organizations that aided United States servicemen and their families. Senator Byrd called the measure "well meaning but misguided," as it could have triggered an avalanche of requests from other private groups. [Ref 33]

This Senate action drew strong opposition from key members of the House Appropriations Committee. Particularly irked by the Senate action was Rep. John P. Murtha (D-Pa), Chairman of the Appropriations Committee Defense Subcommittee, who strongly backed the measure. [Ref 34] In the end, the conference committee reported out in favor of the House on this issue, including the \$16 million as part of the bill. [Ref 35]

A third difference between the House and Senate versions of HR 2251 was the inclusion of a statement in the Senate

version that raised the ceilings on administration transfer limits on the Food for Peace program.<sup>11</sup> House members questioned the administration for details on why the program ceilings should be lifted. [Ref 34] In the conference report, references to the Senate provision were dropped. [Ref 29]

A final difference between the two bills was the inclusion of a Senate amendment that removed restrictions on the International Trade Administration's export promotion expenditures. The House conferees agreed to the Senate provision, without which the agency could have faced a \$12.9 million cut. [Ref 35]

Both the House and the Senate used HR 2251 to pressure the administration to consider another appropriation measure later in the year. [Ref 33] They did this by including a provision in the bill requiring OMB to conduct a study of the "unfunded costs of dire emergencies" in the United States:

The Director of the Office of Management and Budget, using \$35,000 of funds previously appropriated under this head in Public Law 101-509, shall prepare a report on the unfunded costs of dire emergencies, existing because of floods, droughts, tornadoes, unemployment and other disasters in the United States and submit the report to the appropriate committees in Congress within 10 days of the enactment of this Act, pending receipt of a budget request. [Ref 29]

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<sup>11</sup> The Food for Peace program is a program under which needy countries get free or discounted commodities from the United States government.

In another confrontation with the White House, the House Appropriations Committee Subcommittee on Defense balked at the President's request that the administration have unlimited authority to pay for the military component of the relief. Rep. Murtha told Sean O'Keefe, Comptroller for the Department of Defense, "The Comptroller knows we're not going to leave this open-ended." [Ref 38] The limited funding precedent that had been set in the "Dire Emergency" supplemental was again followed in the "Humanitarian Assistance" supplemental. The Congress appropriated specific amounts for Department of Defense Personnel and Operations and Maintenance - enough only to last through the end of May, 1991.

The House Appropriations Committee knew that this action was pressuring the White House to wind down the United States military presence inside Iraq. By funding the operations only through the month of May, the House hoped to accelerate the deployment of United Nations peacekeeping personnel and the subsequent removal of United States military personnel. [Ref 38]

One final note on the politics surrounding HR 2251, again involved Senator Byrd. Still critical of allied financial backing for the Persian Gulf War, Senator Byrd also noted their lack of support for the "Humanitarian Assistance" initiative: "American taxpayers are footing almost the whole tab [of Operation Provide Comfort]....The

American taxpayer has a right to know when it all stops."

[Ref 33]

Clearly, with the passage of the "Humanitarian Assistance" supplemental, the Congress was sending a message to the administration that the "unaccustomed success" the administration had enjoyed in the year's earlier supplemental appropriations were to remain just that- "unaccustomed". The revitalized House pressed the Senate for its provisions in conference and exerted direct pressure on the administration through its inclusion in the bill of a required report and a time limitation on funds provided for administration needs. The next supplemental would see even more fireworks.

## **VII. FY 1991/1992 SUPPLEMENTAL APPROPRIATION NUMBER 4: THE "NATURAL DISASTER RELIEF" SUPPLEMENTAL**

The fourth supplemental appropriation passed by Congress following the enactment of the BEA was Public Law 102-229, the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992. Initiated by President Bush as a FY 1991 supplemental, political debate over this bill was so extensive that passage did not occur until FY 1992. [Ref 12]

The Natural Disaster Relief Supplemental called for \$13.3 billion in appropriations, of which \$12.3 billion was designated as "emergency" requirements in accordance with the BEA. [Ref 39] Of the \$12.3 billion in emergency funds, \$6.3 billion was to be transferred from previously appropriated funds and \$4.1 billion were to be transferred from the Defense Cooperation Account or from the Persian Gulf Regional Defense Fund. Because \$6.3 billion was being transferred from previously appropriated funds, this bill actually calls for new spending of only \$6.9 billion. [Ref 40]

Of the \$13.3 billion in total spending, \$10.5 billion was defense-related, with \$10.4 billion of this being designated as "emergency" funds. \$113 million of the defense funding was "non-emergency" procurement funding. Of the \$2.8 billion in domestic appropriations, \$1.9 billion was designated as "emergency" funding and \$898 million as "non-emergency". [Ref 39]

The \$898 million in "non-emergency" domestic funding was comprised of \$143 million funding for the Federal Emergency Management Authority, and \$755 million for the Commodity Credit Corporation. In both cases, Congress stipulated that these funds could only be spent if the White House requested them and designated them as "emergency" funding. [Ref 40]

The bill included among its "emergency" allocations, \$945 million to pay for crop losses, \$800 million for the Federal Emergency Management Authority disaster relief program, and \$4 billion in new funding for the Persian Gulf War. Of these amounts, \$400 million was provided to assist the Soviet Union in dismantling its nuclear arsenal and \$100 million to transport humanitarian aid. [Ref 41]

The bill was delayed for several months because of disputes between House Appropriations Committee Chairman Jamie Whitten (D-Miss) and the Bush Administration over specifics about "emergency" designation, crop loss payment size, abortion and a campaign financing amendment. In the end, the White House appeared to prevail on most of the

issues that it contested with Congress. [Ref 41] However, an analysis of the specifics of the legislation indicates that the White House compromised much on this measure.

## A. CHRONOLOGY OF EVENTS

On February 28, 1991, House Appropriations Committee Chairman Whitten introduced HJ Res 157, intended to make technical changes and correct enrollment errors in FY 1991 appropriations acts. It was passed by the House in a voice vote and referred to the Senate Appropriations Committee later that day. Senator Byrd asked for unanimous consent in the Senate for the joint resolution but objections were heard. The bill then remained before the Senate Appropriations Committee as an apparently useless vehicle after its substance was enacted as Public Law 102-27, the "Dire Relief" supplemental. [Ref 12] HJ 157 would become a significant part of the "Natural Disaster Relief" supplemental process.

In May, 1991, Office of Management and Budget Director Darman informed Congress that it would be "highly likely" that the administration would submit a fourth supplemental request in FY 1991. [Ref 30] On June 28, 1991, the Bush administration asked Congress for \$693 million to ameliorate the effects of natural disasters that had occurred in the United States, as well as "emergency" funding for additional Persian Gulf War expenses. [Ref 28] This occurred as a

result of the requirement included by Congress in Public Law 102-55 that a study of unfunded natural disasters in the United States be conducted by the Office of Management and Budget. This request would help pay for some or all of the 35 disasters declared by the President after September 30, 1991, and meet some mop-up expenses for disasters that occurred prior to that date. [Ref 28]

The supplemental appeared to be on the Congressional "fast track" until July 18, 1991, when a veto threat was issued by the White House. [Ref 42] On July 10, 1991, the House Appropriations Committee subcommittee chairmen had decided that they wanted all of the non-defense money to be treated as "emergency" spending in much the same manner as the White House had treated the defense money in its original request. Further, the chairmen began to add "emergency" items to the request at a rapid rate.<sup>12</sup>

[Ref 43] The markup planned for the full committee on July 18, 1991, was the event that drew the veto threat, as the 13 subcommittees added almost \$2 billion in extra "emergency" spending, in addition to declaring all the funds requested by the President as "emergency". Upon receipt of the veto threat, Representative Whitten called off the markup and

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<sup>12</sup> Among the early additions to the President's request were funds for the National Oceanic and Atmospheric Administration (\$3.3 million), emergency crop loss payments (\$1.75 billion), abandoned mine reclamation funds (\$10.3 million) and dam repairs (\$15 million).



sought a meeting with President Bush on the measure.

[Ref 42]

Despite a last ditch effort by Senator Byrd to get the measure completed by September 30, 1991, the end of the fiscal year, the next action that the Congress took on the measure was on October 10, 1991, when HR 3543, the "Natural Disaster Relief" supplemental, was referred to the House Appropriations Committee. On October 17, 1991, the bill was reported to the full House. It included a blanket designation for like treatment of domestic and defense emergencies. [Ref 12]

During the last week of October, numerous amendments to HR 3543 were considered, including one proposed by Representative Patricia Schroeder (D-Colo) that called for even wider "emergency" application. She proposed including the Women, Infants and Children program, Head Start, immunization and other programs to the bill to be funded as emergencies. This \$1.39 billion amendment was passed in the House on October 29, 1991, by a vote of 243-180. Later that day, the House passed HR 3543 by a vote of 252-162.

[Ref 44]

On October 31, 1991, the Presiding Officer of the Senate referred HR 3543 to the Senate Appropriations Committee under the rules. The Senate ignored the House-passed bill and, instead, took up HJ Res 157 on November 15, 1991, stripped it and made their own version of the emergency

spending bill. [Ref 12] This allowed the Senate to drop controversial language about campaign reform that risked a veto. The Senate Appropriations Committee approved its version of the "Natural Disaster Relief" supplemental, HJ Res 157, by a vote of 26-3 on November 15, 1991.

[Ref 46] The Senate version of HJ Res 157 called for \$14.3 billion in "emergency" funding compared to the initial presidential request of \$9.7 billion in "emergency" and \$542 million in "non-emergency" funding and House-passed "emergency" funding of \$13.8 billion. [Ref 40]

The Senate Appropriations Committee reported HJ Res 157 to the Senate with amendments that would have given the President greater discretion over what was to be declared an "emergency". On November 22, 1991, the Senate passed HJ Res 157 by a vote of 75-17. [Ref 12] On November 27, 1991, the House approved the Conference report by a vote of 303-114, and later the same day the Senate passed the resolution by a voice vote. [Ref 47] The President signed Public Law 102-229, the Natural Disaster Relief Supplemental Bill on December 12, 1991. [Ref 48]

## **B. DIFFERENCES BETWEEN ENACTMENTS AND REQUESTS**

Public Law 102-229 provided \$12.3 billion in "emergency" and \$1 billion in "non-emergency" funds. The original request submitted by the President asked for \$10.2 billion in "emergency" funds and no "non-emergency" funds. [Ref 39]

Of the \$1 billion in "non-emergency" funds appropriated by Congress, \$898 million required later designation by the President as "emergency" requirements, or no appropriation would be made. Only the \$113 million assigned as "non-emergency" defense procurement was provided unencumbered. [Ref 47]

Because the President had the option not to designate the \$898 million as "emergency" funding, and thereby eliminate it altogether from the process, this funding will not be included in the calculation of the enacted to requested funds ratio. Excluding these amounts, the enacted to requested funds ratio can be calculated to be 1.22.

This 1.22 figure is artificially low, however, because large portions of the original White House request (\$6.5 billion out of \$10.2 billion) and the appropriated funds (\$6.3 billion out of \$12.4 billion) were simply further funding of the Gulf War as discussed in the chapters on Public Law 102-28 and Public Law 102-55. If these figures are taken out of the ratio calculation, then the ratio attained would be 1.65. This figure more accurately reflects the ratio of enacted to requested funds that had not already been specified by the "Operation Desert Storm" supplemental. In terms of "emergency" appropriations, this ratio can be calculated to be 1.62.

TABLE 7-1 shows the differences between the President's request and other versions of the bill: [Refs 39 and 40]

**TABLE 7-1 NATURAL DISASTER RELIEF SUPPLEMENTAL**  
**Budget authority in millions of dollars**

	President's Request	House Passed	Senate Passed	Final Bill
<b>Operation Desert Shield/Desert Storm</b>				
<b>Defense</b>				
Procurement	-----	-----	\$10.1	\$113.1
National Guard Personnel	-----	\$40.2	-----	-----
Operations and Maintenance	\$227.3	425.7	572.3	665.7
Procurement	1472.9	1536.7	1852.6	2028.6
Research, Development, Test Evaluation	108.5	108.5	106.3	106.3
Supply Operations	1140.0	1140.0	1140.0	1140.0
<b>Transportation</b>				
Coast Guard	-----	10.5	17.9	17.9
<b>Veterans</b>				
Medical Care	-----	-----	10.0	10.0
<b>Defense (from previously appropriated funds)</b>				
Military Personnel	(951.0)	(951.0)	(951.0)	(951.0)
Operations and Maintenance	(5622.4)	(5331.4)	(5331.4)	(5331.4)
<b>General Provision</b>				
Protection, Relief for Kurds	-----	-----	115.0	115.0
<b>Natural Disasters</b>				
<b>Independent Agencies</b>				
Federal Emergency Management Administration (FEMA)				
(Emergency)	151.0	943.0	943.0	800.0
(Non-emergency or by special request)	542.0			143.0
<b>Agriculture</b>				
Commodity Credit Corporation				
(Emergency)	-----	1750.0	1750.0	995.0
(Non-emergency or by special request)	-----	-----	-----	755.0
Soil Conservation Service	-----	50.0	28.0	28.0
Emergency Conservation Program	-----	5.0	-----	-----
<b>Defense - Civil</b>				
Corps of Engineers flood control	-----	30.0	40.0	-----
<b>Interior</b>				
Abandoned Mine Reclamation Fund	-----	10.3	-----	-----
Bureau of Reclamation	-----	15.0	-----	-----
Geological Survey	-----	5.0	-----	-----
Forest Service	-----	25.0	-----	-----
Natural Resource Damage Assessment Fund	-----	-----	-----	90.0
<b>Justice (by transfer)</b>				
Community Relations Service	(7.7)	-----	-----	-----
<b>Commerce</b>				
National Oceanic and Atmospheric Service	-----	1.3	0.3	-----
<b>Children</b>				
<b>Agriculture</b>				
Women, Infants and Children	-----	100.0	100.0	-----
<b>Health and Human Services</b>				
Head Start	-----	1200.0	1200.0	-----
Childhood Immunization Program	-----	90.0	90.0	-----
<b>Miscellaneous</b>				
State Department Emergencies	-----	-----	5.0	-----
U. S. Information Agency	-----	-----	(5.6)	-----
Fish and Wildlife Service	-----	-----	(1.0)	-----
<b>Rescissions</b>				
Economic Development Administration	115.0	-----	-----	-----
Housing Assistance	427.0	-----	-----	-----
<b>Totals</b>	10,222.8	13,768.7	14,269.5	13,173.0

Amounts in parenthesis are transferred from other accounts and require no new budget authority

As can be seen from TABLE 7-1, a great deal of negotiation had to be conducted to resolve the differences between the House and Senate bills in conference. Of the 21 items originally proposed by the House, only eight were agreed to in amount by the Senate. The Senate's proposal was less than that of the House-passed version in nine instances, including six in which the Senate authorized no spending on an item that the House had funded. In the cases of four items, the Senate version of the bill called for more spending than the House version. Further, the Senate called for spending on six items that the House had not addressed. The fact that the overall spending called for by the Senate exceeded that proposed by the House surprised many analysts who expected the Senate to scale back the House bill. [Ref 46]

From TABLE 7-1 it can also be seen that the conference committee reported out a bill that increased the funding of four items above that of either house's original bill. The conference report decreased funding below that called for in both bills in seven instances,<sup>13</sup> including all three programs covered by the Schroeder Amendment. Of the

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<sup>13</sup> The funds provided the Federal Emergency Management Administration and the Commodity Credit Corporation are both considered to be less than either house passed because portions of each could be allocated only after Presidential action. In effect, the President had the ability to entirely eliminate the non-emergency portions of these two items by simply not declaring an emergency.

remaining 17 items considered by either house, the conference committee reported out the funds to which the House and Senate had agreed in three cases, agreed with the Senate figure in 12 cases and agreed with the House in two instances.

From TABLE 7-1, of the President's eight requested items,<sup>14</sup> three had funds appropriated in excess of the request and three had appropriated funding less than the request. Two of the President's requests were funded at the requested amount. Seven items not addressed by the President were funded in the conference report. All rescissions requested by the President were eliminated by Congress.

With respect to the President's requests for individual item funding, Congress appropriated more than the President requested more than three times as often as it appropriated less than the requested amount. In terms of dollars appropriated, Congress provided eight times as much in funding above the President's requests for individual items than it withheld in funding for items appropriated below the President's request.<sup>15</sup>

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<sup>14</sup> The President's emergency and non-emergency requests for the Federal Emergency Management Administration are being considered as a single request here.

<sup>15</sup> The eight to one ratio excludes "non-emergency" funding for the Federal Emergency Management Administration and the Commodity Credit Corporation that the President had the option of ignoring and thereby causing the funds to lapse.

## C. SIGNIFICANT POLITICAL DEBATE

Political debate on HR 3543 and HJ Res 157 was significantly greater than on any of the three preceding supplemental appropriation bills. This bill, according to one observer, "was the price the administration paid to keep earlier supplementals clean or comparatively clean of traditional add-ons. There [was] enormous pent-up pressure to tack items onto the bill." [Ref 9] As a result, the confrontation between the White House and Congress that some analysts had predicted as early as June began in July and lasted through November.

The issue that led to the longest delays in having the bill signed into law was perhaps the most basic. Congress and the administration could not agree upon which provisions were to be considered "emergency" for funding purposes. Controversy over this fundamental issue kept the bill in limbo for five months. This is a key concept in determining whether the BEA increased the President's ability to control supplemental appropriation spending, and, as will later be seen, one in which the President's control was limited.

Almost immediately after the President sent his request for supplemental appropriations to fund Operation Desert Shield/Desert Storm and the effects of natural disasters and other urgent needs, the House Appropriations Committee "put Congress on a collision course with the White House over emergency spending." [Ref 43] By the end of the week of

July 10, 1991, the House Appropriations Committee subcommittees had taken the \$3.7 billion request from the White House and marked it up to \$5.6 billion.<sup>16</sup> Further, the House Appropriations Committee had eliminated the requested rescissions and included a blanket designation that all funds were to be treated as "emergency" requirements. [Ref 42]

These actions were too much for the White House to accept, and on July 18, 1991, Chairman Whitten received a veto threat from the White House via Office of Management and Budget Director Darman. Chief among the White House objections was the \$1.75 billion that Whitten's Appropriations Agriculture Subcommittee added to the supplemental for disaster payments to farmers and ranchers. Admitting that weather had been adverse during the year, Darman stated that, "There are many existing programs which are intended to deal with these localized problems." [Ref 42]

Some Democratic members of Congress wanted to use the bill as an opportunity to demonstrate Bush's insensitivity to the needs of the American public - even if it meant sending a bill that was sure to be vetoed. Rep Whitten, on the other hand, preferred to try to work out a compromise

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<sup>16</sup> These figures do not include the \$6.5 billion in adjustment transfers from the Defense Cooperation Account and Persian Gulf Regional Defense Fund that had already been specified in Public Law 102-28.



rather than make a political point. Quoting a House Appropriations Committee source, a vetoed bill " doesn't help [Whitten's] farmers under three feet of water in Mississippi." [Ref 42] The White House remained in opposition to the House plan despite this House attempt at compromise, insisting that only the \$151 million in Federal Emergency Management Administration funds and the defense funds be designated as "emergency". Similarly, the House refused to back down. [Ref 49]

Unable to reach a compromise with the White House, the House Appropriations Committee was forced to act on HR 3543 in late October. By this time, however, the members of Congress who wanted their own piece of the pie were waiting. The \$5.6 billion grew to \$5.8 billion, and then to \$7.5 billion as the Schroeder amendment and other items were added. [Ref 45] At \$7.5 billion, the House-passed bill was twice that of the President's request.

Whitten recognized that the bill's full emergency funding clause would cause trouble with the White House but urged passage despite this fact. Pragmatically, he stated, "This is not the last chance to correct things in this bill, because now it goes to the Senate." [Ref 45] Passed on October 29, 1991, the House bill included the following:

Although the President has designated only portions of the funds in this bill pertaining to the incremental costs of Operation Desert Shield/Desert Storm and certain Federal Emergency Management Administration costs as "emergency" requirements, the Congress believes that the

same or higher priority should be given to helping the American people recover from natural disasters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in this Act as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. [Ref 12]

The Senate Appropriations Committee modified the House language concerning full emergency funding as follows:

Notwithstanding any other provision of this joint resolution, funds in the joint resolution are available for obligation only for costs of Desert Shield/Desert Storm or to the extent and only in the amount designated by the President, not later than the date of enactment of this joint resolution, to be emergency funding requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. [Ref 12]

This wording was intended to prevent the President from signing the measure, spending the money and then ordering an across-the-board cut in domestic programs to pay for it. It also gave the President the power to selectively designate items as "emergency" requirements, and let the others expire for lack of funds. Such power led some senators, such as Senator Brock Adams (D-Wash) to cry "line-item veto" yet again, only this time with more legitimacy. Byrd responded that he did not expect the bill to go to the White House in its current form. "I am hopeful that additional amounts for FEMA and crop losses will be declared an emergency by the White House," he said. [Ref 46]

Passed by the Senate, HJ Res 157 was taken to conference with the House. It was here that the administration exerted

its greatest pressure on the bill. The general provision wording reverted to the House form and the item-by-item contingency language of the Senate version was deleted--both apparent losses for the White House. However, the White House extracted a compromise from Congress that allowed it the choice of funding particular expenditures to a level of the President's choosing.

Specifically, he could transfer "up to" \$100 million from the defense category to transport international assistance to the Soviet Union, withhold \$143 million of the funding for the Federal Emergency Management Administration by withholding his "emergency" designation and similarly withhold \$755 million of the Commodity Credit Corporation funding by not declaring the funds "emergency". [Ref 48]

In a related compromise, the White House extracted a concession from Congress on the Federal Emergency Management Administration that required at least \$320 million per year be budgeted for domestic disasters. The Office of Management and Budget felt that Congress had been intentionally underfunding the Federal Emergency Management Administration and relying on "emergency" supplementals to "expand the budget". [Ref 47] In return, the Congress included language stating that in the future all of the amounts appropriated under the Stafford Disaster Relief and Emergency Assistance Act above an historical average or the President's budget request would be considered

emergency requirements, even without Presidential designation. [Ref 12]

This final point is significant in that it appears to have mitigated the President's authority under the BEA to control supplemental appropriation spending by withholding his "emergency" designation. In future supplemental appropriation bills, amounts above the President's request or the historical average would automatically be funded outside of the spending caps established by the BEA.

The second most significant issue affecting the political debate on this supplemental appropriation bill is closely linked to the first. While debating which items were to be designated as "emergency" funding requirements, the Congress was also debating the overall size of the bill. Because Congress was demanding blanket emergency designation, and the BEA exempted "emergency" items from the budget cap limits, the bill's size directly affected the amount of total government spending for the year.

As previously discussed, the House took the President's modest request and immediately began adding to it. In its initial request, the White House offered to designate the military funding as well as \$151 million of its request for the Federal Emergency Management Administration as "emergency" funds. [Ref 49] As the bill grew, and Congress remained firm in its commitment to fund the entire bill as "emergency" requirements, the White House and its supporters

in Congress grew stronger in opposition to the bill. In early September, in an effort to reduce the size of the bill, the ranking Republican on the House Appropriations Committee, Joseph McDade (R-Penn) sought to offset \$1.2-1.4 billion of the \$2.6 billion in non-defense spending. This effort was ignored as the House Appropriations Committee moved to mark up the bill. [Ref 49]

In other attempts to limit the size of the bill, aides in both the House and the Senate suggested stripping some of the components out of the supplemental and including them on the regular FY 1992 appropriations bills. [Ref 50] Senator Byrd suggested that the House Appropriations Committee should accept a compromise and take advantage of some FY 1991 offsets that were about to expire. [Ref 44] Like McDade's suggestions, these ideas received little attention.

A final attempt was made by McDade to offset some of the spending on October 29, 1991, as the bill was being considered by the full House. In a motion to send the bill back to committee, he included a proposal that offsets be included in the bill. The feeling in Congress, however, was not for "legitimizing" the bill by taking money from regular spending bills, and McDade's proposal was defeated 180-232. [Ref 45]

In its original form, the House bill's size drew strongest opposition from the White House for its spending in the area of crop loss payments. The White House wanted

significantly less than the \$1.75 billion called for in the House bill. [Ref 42] Whitten remained confident throughout the proceedings that the broad support among both farm state Republicans as well as Democrats would force the White House to accept the provision. In conference, where the White House was a key player, \$995 million was made available without further White House action, and the remaining \$755 million included a provision for \$100 million for certain crops planted in 1991 for harvest in 1992 - "a provision added at the behest of Senate Minority Leader Robert Dole (R-Kan), for winter wheat." [Ref 47]

Whitten remained confident that the full amount would eventually be added to the original administration request. Asked if he thought the Dole provision would help his crusade to get the full \$1.75 billion designated as "emergency" spending, he replied, "I don't imagine it hurts." [Ref 47]

Given the initial White House objections to the bill, the addition of the Schroeder amendment only caused greater White House concern. Despite support in both houses of Congress, the Schroeder amendment and its \$1.39 billion price tag were scuttled in conference and did not appear in the final bill. [Ref 48] Provoking cries of foul by Representative Schroeder, this was the White House's single greatest victory in paring back congressional add-ons.

Indeed, the final bill was much larger than the White House would have liked, but there were only a limited number of alternatives available to the White House. The language of the bill sharply limited the President's ability to withhold emergency designation as he had threatened in the "Dire Emergency" and other supplementals. And as Representative Vin Weber (R-Minn) stated, "[the] average person thinks that [disaster relief] is what the government ought to be doing." Further, he commented that it would be difficult to argue that the bill was "busting the budget" when the FY 1992 deficit was already projected to be \$350 billion. [Ref 45]

Two other aspects of the bill, neither of which involved appropriations, also drew considerable political debate. These were an amendment concerning campaign finance reform and a provision prohibiting arms sales to Saudi Arabia and Kuwait until their financial contributions to the Desert Shield/Desert Storm operation were fulfilled. [Ref 45]

The campaign finance reform amendment would have changed the way in which presidential candidates could get financing from the taxpayer checkoff fund. This had been passed by the House but was deleted by the Senate Appropriations Committee. Senator Byrd feared that the inclusion of the provision would open the way for other tax amendments and provoke "a sure filibuster" on the Senate floor. [Ref 46]

The White House strongly opposed the amendment, calling it "election eve politics" that would change long standing rules. The campaign reform language was perhaps the single item most likely to result in a veto and was deleted from the bill in conference. [Ref 46]

As previously discussed, Senator Byrd had for some time been expressing frustration over the slow remittance of Gulf War pledges from the allies. This finally manifested itself in a statute with teeth when he had a requirement included in the conference report that stated:

No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full....the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

- (1) In the case of Saudi Arabia, \$16,839,000,000
- (2) In the case of Kuwait, \$16,006,000,000....[Ref 48]

Congressional Quarterly summarized the action on this supplemental appropriation bill as follows:

The House vote was a long time coming. The White House began the process June 28 with a request for money for the Pentagon and disaster-battered communities. House Appropriations subcommittees marked up a bill the week of July 8, but the money they added for farmers and others triggered an administration veto threat, which threw the measure into limbo for months while appropriators vainly sought a compromise with the administration.

By contrast, the twin supplemental spending bills requested by the White House in early February (HR 1281, HR 1282) were cleared by the end of March. This supplemental was on hold for so long that it had to be changed from a fiscal 1991 to a fiscal 1992 measure. Appropriators finally decided not to let the veto threat stall the measure any



longer, and the result was a bill nearly twice as large as the original White House request. [Ref 45]

The Federal Budget Report concludes:

The White House appears to have prevailed on most.... issues. Crop payments, which were expected to total \$1.75 billion, were reduced to less than \$ 1 billion in the bill. However, a provision states that another \$755 million will be made available if the president submits an emergency funding request. The campaign financing amendment was struck from the bill entirely.... Finally, the \$800 million in FEMA funding contains a contingency clause that allows another \$143 million to be appropriated if the president requests it. [Ref 41]

Despite the White House successes, "emergency" funding in the final "Natural Disaster Relief" supplemental appropriation bill was significantly greater than requested. Further, the compromise reached on funding for the Federal Emergency Management Administration had the potential to mitigate the power of the President to control supplemental appropriation spending by eliminating his ability to withhold "emergency" designation for appropriations that exceeded either his original budget request or the historical average.

## VIII. CONCLUSIONS

### A. IMPACT OF THE BEA

An analysis of the first supplemental appropriation bills enacted in the year following the passage of the BEA indicates that the White House was initially able to use the BEA with some success to limit congressional freedom in supplemental appropriation spending. The Administration's aim was to reduce the number of congressional add-ons to the President's requests for supplemental appropriations. However, as each supplemental appropriation bill was initiated by the White House, the spending control exercised under the BEA diminished.

Beginning with the "Dire Emergency" supplemental, three of the first four supplemental appropriation bills enacted following the passage of the BEA clearly demonstrated a trend. This pattern saw Congress appropriate even larger amounts above the President's requests than it had appropriated in the previous decade before the BEA took effect.

This is clearly evidenced by the increase in the ratios of enacted to requested funds calculated for post-BEA bills as compared to the 1981-1989 baseline. The 1981-1989 enacted to requested funds ratio averaged 1.02. The "Dire

Emergency" supplemental had a 1.47 ratio, the "Operation Desert Storm" supplemental a 1.0 ratio, the "Humanitarian Assistance" supplemental a 1.21 ratio and the "Natural Disaster Relief" supplemental had a 1.65 ratio. TABLE 8-1 summarizes the enacted to requested funds ratios for the four bills.

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**TABLE 8-1**  
**ENACTED TO REQUESTED FUNDS RATIOS:**  
**1991 SUPPLEMENTALS**  
 (total budget authority)

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Bill	Ratio
"Dire Emergency" Supplemental	1.47
"Operation Desert Storm" Supplemental	1.00
"Humanitarian Assistance" Supplemental	1.21
"Natural Disaster Relief" Supplemental	1.65

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The only supplemental appropriation bill that was below the historic average was the "Operation Desert Storm" bill, which, as noted in Chapter 5, was kept artificially clean. Would-be Congressional add-ons were lumped on to the "Dire Emergency" supplemental to avoid the charge that Congress was using a required war funding bill as a vehicle for non-essential projects.

More importantly, when only the "emergency" funding within the bills is analyzed, the ratios paint much the same picture. It is, after all, only within this portion of the

post-BEA supplemental appropriation legislation that the President was given new authority to control spending. If this new authority made a difference, it should be most apparent here.

Analyzing only "emergency" spending, the "Dire Emergency" supplemental ratio drops from 1.47 to 1.1 and the "Natural Disaster Relief" supplemental drops to 1.62 from 1.65. The ratios for the other two bills remain the same because they were fully funded as "emergency" requirements.

TABLE 8-2 summarizes the "emergency" enacted to requested funds ratios.

TABLE 8-2 ENACTED TO REQUESTED FUNDS RATIOS: EMERGENCY PORTION OF 1991 SUPPLEMENTALS (total budget authority)	
Bill	Ratio
"Dire Emergency" Supplemental	1.10
"Operation Desert Storm" Supplemental	1.00
"Humanitarian Assistance" Supplemental	1.21
"Natural Disaster Relief" Supplemental	1.62

The fact that the White House did not use its new powers as defined by the BEA to restrict "emergency" spending is reflected in these figures. As previously discussed, the Administration was able to prevent additional "emergency" spending on small items only. On most highly visible,

expensive items, Congress was able to obtain concessions from the White House, resulting in significantly higher "emergency" spending than initially proposed by the White House. This is undoubtedly due to the fact that neither Congress nor the President were willing to alienate the large segments of voters that would have been affected by deletion of expensive programs, whereas the parochial nature of most small programs did not dissuade the President from exercising his new powers.

Similarly, when individual items within the bills are compared to the baseline period, the BEA does not appear to have had any impact. From 1981-1989, about half of the items either requested by the President or funded by Congress were funded at the amount requested by the President. Of the 75 individual items either requested by the President or funded by Congress in the three non-"Operation Desert Storm" supplementals enacted after the passage of the BEA, only 23, or 31 percent, received appropriated funds equalling the President's request. When not appropriated at the requested amount, the percentage of items funded above the amount requested by the President rose from 60 percent in the baseline period to 80 percent under the BEA. This indicates an increase in the probability that Congress will fund individual items in supplemental appropriations above the levels requested by the President.

Similarly, after the passage of the BEA, Congress was likely to add more total funding to those items that were appropriated above the President's request than it was to reduce the total funding for items appropriated below the President's request. In fact, by the time that the Natural Disaster Relief supplemental was passed, Congress appropriated eight times as much funding above the President's individual item requests than it withheld in funding from those items appropriated below the requests. This was a dramatic increase from the three to one ratio in the 1981-1989 period.

Judged solely on these analytical ratios and mathematical calculations, the BEA would have to be considered unsuccessful in controlling supplemental appropriation spending. The rising ratios of enacted to requested funds, coupled with the rising percentage of "emergency" funding within the bills, clearly demonstrate a deteriorating control of supplemental appropriation spending.

This result surprised many analysts who, upon passage of the BEA thought that congressional add-ons to supplemental appropriation bills would be greatly curtailed by the new powers afforded the executive branch by the BEA. Rudolf G. Penner stated, "the new process [BEA] has greatly enhanced the executive branch's power in the budget process. In bargaining over emergency legislation, the president's power

bears some resemblance to having an item veto." [Ref 51] from statements such as this it can be inferred that this new power, or the threat of its use, would significantly reduce the volume of congressional add-ons attached to supplemental appropriation bills.

While some members of Congress attempted to limit the growth of supplemental appropriations by offsetting their costs, the trend was to fund ever larger portions of the bills as "emergency" requirements. The amount of "emergency" appropriations as a percentage of total appropriations went from about 32 percent in the "Dire Emergency" supplemental to about 98 percent in the "Natural Disaster Relief" supplemental.<sup>17</sup>

This trend towards full "emergency" funding can be seen in another calculation as well. In the "Natural Disaster Relief" supplemental, the enacted to requested funds ratio for the bill total was 1.65 to one. For the "emergency" items in the bill alone, the ratio was 1.62 to one. As none of the "non-emergency" funds appropriated by the bill were requested by the President, the similarity between these two

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<sup>17</sup> The percentage calculated for the "Natural Disaster Relief" supplemental excludes those funds not appropriated to the Federal Emergency Management Administration and the Commodity Credit Corporation without further presidential action and all "adjustments" for Desert Storm funding. If the Federal Emergency Management Administration and Commodity Credit Corporation funds were included in the calculation as "non-emergency" funds, the percentage of "emergency" funding within the bill would be 83 percent. If included as "emergency" funding, the percentage would rise to 99 percent.

values indicates the small contribution of "non-emergency" funds to the bill's total.

The movement towards expanding the "emergency" portion of funds in the supplemental appropriation bills passed subsequent to the BEA indicates that the President was unable or unwilling to use his new authority under this statute to limit congressional increases to his proposals for supplemental appropriation spending. Congress and the President appear to be willing to collaborate in the use of "emergency" designation to increase supplemental appropriation funding outside of the BEA caps. Senator Pete Domenici (R-NM) anticipated this problem:

I submit that there is no budget agreement left, because Congress can decide every time they want something new; that they will send it to the President and say, we think it is an emergency, if you agree, there is no budget limitation....

I believe you have every opportunity to ignore the budget resolution, the appropriation caps, and send him [the President] freestanding spending bills, and put the emergency in his lap and say, if you declare it, we spend it, if you do not, it is not an emergency. And that becomes the end of the budget resolution and the 5-year agreement. [Ref 12]

The "Dire Emergency" and "Humanitarian Assistance" supplementals further demonstrate the apparent willingness of the Congress and the White House to circumvent the spirit of the spending restrictions of the BEA. In the case of the "Dire Emergency" supplemental bill, \$655 million in veterans benefits were classified as "emergency" funds, to be transferred from the Defense Cooperation Account.



Similarly, and perhaps more dramatically, in the "Humanitarian Assistance" supplemental, Congress and the White House stretched the "emergency" Desert Shield costs exception of the BEA to include international assistance funds. In both cases, "creative" financing was used to extract more funding than would have been otherwise available under the statutory language of the BEA.

As Representative Dan Rostenkowski (D-Ill) indicated, such efforts to "overwork" the "emergency" authority of the BEA bodes badly for future supplemental appropriation spending control. [Ref 12]

If one is to try to predict the future effectiveness of the BEA in controlling supplemental appropriation spending, it is not enough to look at the four bills examined in this analysis on solely dollar terms. An analysis of the political dynamics of supplemental appropriation legislation following the passage of the BEA gives further clues to the probable future effectiveness of the BEA in enhancing supplemental appropriation spending control.

The White House enjoyed "unaccustomed success" in controlling congressional add-ons in the "Dire Emergency" and "Operation Desert Storm" supplementals. This "unaccustomed success", however, did not translate into significant results. The Administration got its way mainly on small price-tag items, while Congress prevailed on most big-dollar items. And the Administration's effectiveness

eroded with each bill. By the time that Congress and the Administration took up the "Natural Disaster Relief" supplemental, little White House success was evident.

This erosion in the ability of the White House to limit the amount of spending added by Congress to supplemental appropriation bills is attributable to a single cause. It is linked to the circumstances under which the BEA was passed late in 1990, at the very end of the 101st Congress. At the time that it was brought to the floor, many congressmen had just received their copies of the legislation and had not yet had an opportunity to review it closely. The Congressional leaders who had negotiated the agreement with the White House pressed for passage of the Act before the winter recess despite the concerns raised by many in Congress that they did not know the specifics on what they were voting. When signed into law on November 5, 1990, many members of Congress did not understand the new law.

As the supplemental appropriation bills of 1991 unfolded, many members of Congress came to appreciate, and then object to, the new authority granted to the executive branch in this area of the law. In the early bills, Congress appeared uncertain as to how to counter the new White House clout. The White House effectively singled out items Congress wanted to include in the "emergency" portion of these bills and communicated its intention to withhold

its designation of these items as "emergency" needs. The Congress apparently had no option other than to back down or accept the mini-sequester threat.

However, by the time that the "Natural Disaster Relief" supplemental was being debated, Congress had discovered a strategy to prevent the President from using this power in future domestic natural disaster cases. This new congressional strategy mitigated the President's "line-item veto".

According to this strategy, the President would have no choice other than to veto a supplemental appropriation bill in its entirety in order to eliminate any undesired "emergency" Stafford disaster funds. Specifically, Congress included a requirement that in the future, all funds appropriated under the Stafford disaster relief category that were in excess of the amount requested by the President in his budget request or the historical average would be considered as "emergency" without any further action.

Because these "emergency" funds no longer required his designation to be treated as such, if the President wanted funding for his requested programs, he would be forced to accept funding for these disasters as "emergency" as well. Without the threat of a mini-sequester for these domestic natural disaster programs that push spending above the limits of the caps, spending control in supplemental appropriations may be lost.

The circumstances surrounding the "Dire Emergency" and "Operation Desert Storm" supplemental appropriation bills were unique and are unlikely to be repeated in the future. Future supplemental appropriation bills should not be expected to demonstrate this kind of self-imposed exercise in congressional spending control. In fact, the loss of this control was already evident in the "Natural Disaster Relief" supplemental bill.

As if to add insult to the injury manifest in the diminution of the President's control over supplemental appropriations, Congress included wording in the "Natural Disaster Relief" supplemental that allowed the President to increase, but not lower, the "emergency" spending appropriated by Congress. Congress made \$898 million in funding contingent upon request and designation as "emergency" by the President. Deprived of his future ability to control supplemental appropriation spending in domestic natural disasters, the President could only ask Congress to spend more than they had appropriated, and only funds that were outside of the spending limits imposed by the BEA.

With the passage of the BEA, there was an expectation among analysts that supplemental appropriation spending would be subject to increased spending control. This control would result from the President's ability to withhold "emergency" designation from various programs

supported by Congress, bolstered by the threat of a mini-sequester to reduce spending to the levels of the BEA caps. Some observers of the budget process had been encouraged by the passage of the BEA to expect that the President would be better positioned to limit congressional increases to supplemental appropriation requests. As time passed, however, it became more apparent that the controls enacted by the BEA were not going to be effectively exercised by the White House.

## **B. IMPLICATIONS FOR THE DEPARTMENT OF DEFENSE**

Analysis of the first four supplemental appropriation bills enacted following the passage of the BEA yields several implications for future Department of Defense supplemental appropriation legislation. The Department of Defense received strong support from Congress and the Administration in each bill. However, certain actions by Congress highlighted the fact that Operation Desert Shield/Desert Storm provided a unique set of circumstances from which the Department of Defense benefitted, but which may not be present in the future. Notwithstanding the fact that these special circumstances existed at the time the supplemental appropriation bills were passed, Congress did not agree to all of the Administration's requests for Department of Defense funding.

Operation Desert Shield/Desert Storm presented a special case for recent supplemental appropriation legislation. Funding for the war, embodied in the supplementals, was exempt from the BEA caps by virtue of the statutory language of the BEA. Both Congress and the Administration had incentives to keep the Department of Defense aspects of the bills clean. As a high-profile, statutorily defined emergency, the Operation Desert Shield/Desert Storm portions of these supplemental appropriations bills received special treatment from lawmakers and the executive branch. It is not likely that future Department of Defense supplemental appropriation requests will enjoy such a privileged status.

Despite this privileged status and the overwhelming public support for the Persian Gulf War with its consequent pressure on Congress to support the war, Congress demonstrated in the "Operation Desert Storm" supplemental that it would continue to exercise close scrutiny of the Department of Defense's requests. This scrutiny resulted in a reduction of the initial Department of Defense request. These cuts occurred despite the fact that congressional leaders had agreed to facilitate the bill's passage.

Given the unique support that Operation Desert Shield/Desert Storm enjoyed, and the fact that such congressional support for the Department of Defense is not routine, it is quite likely that future Department of Defense supplemental appropriation requests will endure

greater scrutiny and be subject to stricter limits than those imposed on the "Operation Desert Storm" supplemental appropriation bill.

Other examples indicating that the BEA was not going to fundamentally alter the nature of the relationship between the Department of Defense and Congress were evident in the "Humanitarian Assistance" supplemental appropriation bill. In this supplemental, Congress balked at providing open-ended funding for the military component of the relief effort. Representative Murtha's comments that "the Comptroller knows that we're not going to leave this thing open ended," in reference to the Administration's request for unlimited authority to pay for the military component of relief, was evidence that Congress was going to maintain its longstanding policy of providing limited funding for Department of Defense activities.

This policy had been previously demonstrated in the "Dire Emergency" and "Operation Desert Storm" supplemental appropriation bills. The fact that Operation Desert Shield/Desert Storm were still being appropriated as late as the "Natural Disaster Relief" supplemental appropriation bill is indicative of the fact that even in a case where Department of Defense funding enjoyed considerable public support, Congress kept defense spending on a short leash. With significant future defense reductions likely, supplemental appropriation funds for the Department of Defense are

unlikely to be provided any less judiciously, if such supplemental appropriations for defense are proposed at all.

A final implication for the Department of Defense derived from the 1991 supplemental appropriation measures is implicit in the actions of Senator Byrd. With each bill, Senator Byrd was quick to point out the inadequacy of the allied financial contribution effort. At first, the Senator's complaint was that the total of the pledges seemed to be inadequate. Later, the rate of payment invoked his rage. The fact that Senator Byrd was able, time and again, to muster support within Congress for his position implies that future military efforts by the United States may require substantial financial backing from abroad, especially if other nation's interests are threatened. It is not unimaginable that Congress might withhold funding for future Department of Defense operations subject to financial support by our allies.

In summary, the BEA has not proven to be a watershed event for the supplemental appropriation legislative process. Funding for supplemental appropriation bills continued in much the same manner as in the past. Small amounts of "non-emergency funds were added to the supplemental appropriation bills enacted following the passage of the BEA. Cuts in regular appropriations were required when these "non-emergency" items were left in the bill.



But by and large, most funding added by Congress was not offset by spending cuts in other appropriations. There were no mini-sequesters which were the result of excess spending in supplemental appropriations bills. In short, spending control was not enhanced by the new authority given to the executive branch in this area.

Congress eventually vitiated the President's new power under the BEA by enacting legislation that exempted domestic natural disasters from the budget caps of the BEA. Funding of supplemental appropriation bills was no different under the BEA than it was in the pre-BEA era when budget caps did not exist and most supplemental appropriation bill funding added to the government's total expenditures.

### **C. RECOMMENDATIONS FOR FUTURE RESEARCH**

Future research should include an analysis of the two fiscal year 1992 supplemental appropriation bills to determine whether these trends have continued. These two bills, Public Laws 102-302 and 102-368, both contained provisions for domestic discretionary supplemental appropriations. [Ref 52]

Of additional interest would be an analysis of the BEA's "emergency" provisions for mandatory spending programs. While this thesis focused solely on the use of the "emergency" provisions of the BEA as they affected discretionary supplemental appropriations, the President has

similar authority with respect to mandatory or entitlement programs. It might be expected that, since the BEA has made little difference in the discretionary supplemental appropriation process, a similar result would be found in the area of entitlement spending. The same sort of analysis that was used in this study could be used to determine whether the BEA has increased spending control in the remainder of the federal budget.

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